

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Andres Gabriel Bello-Perez

v.

Civil No. 08-cv-381-JD

United States of America

O R D E R

Andres Gabriel Bello-Perez was convicted in 1991 of conspiring to distribute cocaine in violation of 21 U.S.C. § 846. His conviction was affirmed on September 29, 1992. Proceeding pro se, Bello-Perez filed actions seeking relief pursuant to 28 U.S.C. § 2255 on July 29, 1996, and October 24, 1996, which were denied. In May of 2008, Bello-Perez filed a motion in his criminal case to reduce his sentence based on the intervening change in the Guidelines pertaining to sentences for crack cocaine offenses. His motion was denied because his offense of conviction did not involve crack cocaine.

In September of 2008, Bello-Perez, proceeding pro se, filed a "Petition for Writ of Audita Querela," again challenging his sentence. The petition was dismissed due to a lack of jurisdiction. See Trenkler v. United States, 536 F.3d 85, 97-98 (1st Cir. 2008). Bello-Perez appealed. The First Circuit affirmed in a mandate issued on March 16, 2009. Bello-Perez then moved for a certificate of appealability.

Conclusion

For the reasons stated, the court lacks jurisdiction to hear Bello-Perez's complaint. The motion (document no. 12) is denied.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

June 4, 2009

cc: Andres Gabriel Bello-Perez, pro se